

# PROPOSED RULE AMENDMENTS

## Public Hearing:

***February 13, 2019 – 10:00 am***

## Full Commission Vote:

**February 15, 2019- 9:00 am**

**Wake Technical Community College  
Public Safety Training Center  
321 Chapanoke Rd.  
Raleigh, NC 27502**

**Instructions for Oral and Written Comments:** The objection, reasons for the objection, and the clearly identified portion of the rule to which the objection pertains, must be submitted in writing to:

Charminique Williams  
Department of Justice  
Criminal Justice Standards Division  
PO Drawer 149  
Raleigh, NC 27602.



**Title:** Rule-making and Administrative Hearing Procedures, Administrative Hearing Procedures, Certification of Instructors, General Instructor Certification, Terms and Conditions of General Instructor Certification, Suspension: Revocation: Denial/School Director Certification, Agency Retention of Records of Certification, Minimum Training Specifications: Annual In-service Training, Topical Areas, Instructor Responsibilities, Retention of Records of Certification

**Agency:** Criminal Justice Education and Training and Standards Commission

**Contact:** Charminique Williams

**Impact Summary:** State Government: No  
Local Government: No  
Substantial Impact: No  
Small Business: No

12 NCAC 09A .0107 Rule-making and Administrative Hearing Procedures  
12 NCAC 09A .0207 Administrative Hearing Procedures  
12 NCAC 09B .0301 Certification of Instructors  
12 NCAC 09B .0302 General Instructor Certification  
12 NCAC 09B .0303 Terms and Conditions of General Instructor Certification  
12 NCAC 09B .0503 Suspension: Revocation: or Denial of Certification  
12 NCAC 09C .0307 Agency Retention of Records of Certification  
12 NCAC 09E .0105 Minimum Training Specifications: Annual In-Service Training  
12 NCAC 09F .0102 Topical Areas  
12 NCAC 09F .0105 Instructor Responsibilities  
12 NCAC 09G .0306 Retention of Records of Certification  
12 NCAC 09G .0307 Certification of Instructors  
12 NCAC 09G .0407 Suspension: Revocation: or Denial/School Director Certification

**Statutory authority for the rule change:** G.S. 17C-2; 17C-6; 17C-9; 17C-10; 153A-217; 150B-20; 150B-21.6; 150B-38(h); 150B-40

Amendment: On November 28, 2018 the Criminal Justice Education and Training Standards Commission proposed amendments to the aforementioned rules in order to:

- Clarify what records an agency must keep for officers with probationary certification and for officers with general certification, including officers transferring from another agency
- Clarify time period required by statute to request a contested case hearing
- Remove outdated definition of good moral character and adds cross-reference to current definition
- Grant the CJ Standards Director the authority to issue an extension on a one time basis not to exceed 12 month for the 8 hours of instruction required during probationary certification.
- The removal of 60-day application requirement of Instructors who have completed an equivalent instructor training course using the ISD model.
- Provide the annual in-service training topics for 2020

- Address School Directors engagement with students
- Provide a procedure for CCH Instructors who relinquish their certification to transfer his or her participate certificate to another CCH Instructor.

- ☐ **State Impact:** None
- ☐ **Local Government Impact:** No
- ☐ **Substantial Economic Impact:** No
- ☐ **Small Business Impact:** No

\*Rules begin on the following page

12 NCAC 09A .0107 is proposed for amendment as follows:

**12 NCAC 09A .0107      PROCEDURES FOR PETITONS FOR RULE-MAKING AND ADMINISTRATIVE HEARING PROCEDURES**

(a) In addition to the ~~procedures~~ process set out in G.S. 150B-20, Petitions for Rule-Making shall be submitted to the Commission and shall may contain:

- (1) petitioner's name, ~~address~~ address, and telephone number;
- (2) a draft of the proposed rule or rule change;
- (3) the reason for its proposal;
- (4) the effect of the proposal on existing rules or decisions;
- (5) data supporting the proposal;
- (6) practices likely to be affected by the proposal; and
- (7) a list or description of persons likely to be affected by the proposed rule.

(b) ~~Administrative hearings in contested cases conducted by the Commission or an Administrative Law Judge (as authorized in G.S. 150B-40) shall be governed by:~~

- (1) ~~procedures set out in Article 3A of G.S. 150B;~~
- (2) ~~insofar as relevant, the Rules of Civil Procedure as contained in G.S. 1A-1;~~
- (3) ~~insofar as relevant, the General Rules of Practice for the Superior and District Courts as authorized by G.S. 7A-34 and found in the Rules Volume of the North Carolina General Statutes.~~

(c) ~~The rules establishing procedures for contested cases adopted by the Office of Administrative Hearings as contained in Title 26, Chapter 3 of the North Carolina Administrative Code are hereby incorporated by reference for contested cases for which this agency has authority to adopt rules under G.S. 150B-38(h). All such incorporations by reference shall automatically include any later amendments and editions of the incorporated material as provided by G.S. 150B-21.6.~~

(d) ~~If the case is conducted under G.S. 150B-40(b), the presiding officer shall have the powers and duties given to the Chief Administrative Law Judge or the presiding Administrative Law Judge in Title 26, Chapter 3 of the North Carolina Administrative Code.~~

(e) ~~Pursuant to G.S. 17C-11(b), an applicant for certification or a certified officer shall have 30 days from the date of receipt of a notice of proposed action by the Commission to request a contested case hearing.~~

*History Note: Authority G.S. 17C-6; 150B-20; 150B-21.6; 150B-38(h); 150B-40;*

*Eff. January 1, 1981;*

*Amended Eff. August 1, 2019; April 1, 2009; November 1, 1993; July 1, 1988; April 1, 1984;*

*Pursuant to G.S. 150B-33(b)(9), Administrative Law Judge Donald W. Overby declared Paragraph (d) of this rule void as applied in Curtis Canty v. NC Criminal Justice Education and Training Standards Commission (14 DOJ 01202).*



1 12 NCAC 09A .0207 is proposed for adoption as follows:  
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3 **12 NCAC 09A .0207 ADMINISTRATIVE HEARING PROCEDURES**

4 (a) Administrative hearings in contested cases conducted by the Commission or an Administrative Law Judge (as  
5 authorized in G.S. 150B-40) shall be governed by:

6 (1) procedures set out in Article 3A of G.S. 150B;

7 (2) insofar as relevant, the Rules of Civil Procedure as contained in G.S. 1A-1;

8 (3) insofar as relevant, the General Rules of Practice for the Superior and District Courts as authorized  
9 by G.S. 7A-34 and found in the Rules Volume of the North Carolina General Statutes.

10 (b) The rules establishing procedures for contested cases adopted by the Office of Administrative Hearings as  
11 contained in 26 NCAC 03 are hereby incorporated by reference for contested cases for which this agency has authority  
12 to adopt rules under G.S. 150B-38(h).

13 (c) If the case is conducted under G.S. 150B-40(b), the presiding officer shall have the powers and duties given to the  
14 Chief Administrative Law Judge or the presiding Administrative Law Judge in 26 NCAC 03.

15 (d) Pursuant to G.S. 17C-11(b), an applicant for certification or a certified officer shall have 30 days from the date of  
16 receipt of a notice of proposed action by the Commission to request a contested case hearing.

17  
18 History Note: Authority G.S. 17C-6; 17C-11(b); 150B-38(h); 150B-40;

19 Eff. August 1, 2019;

12 NCAC 09B .0301 is amended proposed for amendment as follows:

## SECTION .0300 - MINIMUM STANDARDS FOR CRIMINAL JUSTICE INSTRUCTORS

### 12 NCAC 09B .0301 CERTIFICATION OF INSTRUCTORS

(a) A person participating in a Commission-certified criminal justice training course or program as an instructor, teacher, professor, lecturer, or other participant making presentations to the class shall first be certified by the Commission as an instructor.

(b) The Commission shall certify instructors under the following categories: General Instructor Certification, Specialized Instructor Certification, or Professional Lecturer Certification as outlined in Rules .0302, .0304 and 0306 of this Section. Instructor certification shall be granted on the basis of documented qualifications of experience, education, and training in accord with the requirements of this Section and as stated on the applicant's Request for Instructor Certification Form.

(c) In addition to all other requirements of this Section, each instructor certified by the Commission to teach in a Commission-certified course shall remain competent in his or her specialized areas. Such competence shall include remaining current in the instructor's area of expertise, which shall be demonstrated by attending and completing all updated instructor training courses required by the Commission.

(d) If a person certified as an instructor by the Commission is found to have knowingly and willfully violated any provision or requirement of the rules in this Subchapter, the Commission shall take action to correct the violation and to ensure that the violation does not recur, including:

- (1) issuing an oral warning and request for compliance;
- (2) issuing a written warning and request for compliance;
- (3) issuing an official written reprimand;
- (4) suspending the individual's certification for a specified period of time or until acceptable corrective action is taken by the individual; and
- (5) revoking the individual's certification.

(e) The Commission shall deny, suspend, or revoke an instructor's certification if when the Commission finds that the person:

- (1) has failed to meet and maintain any of the requirements for qualification;
- (2) has failed to remain knowledgeable in the person's areas of expertise;
- (3) has failed to deliver training in a manner consistent with the instructor lesson plans outlined in the "*Instructor Training Manual*" as found in 12 NCAC 09B .0209;
- (4) has failed to follow specific guidelines outlined in the "Basic Law Enforcement Training Course Management Guide" as found in 12 NCAC 09B .0205;
- (5) has demonstrated unprofessional personal conduct in the delivery of *Commission-mandated* training. For the purposes of this Subparagraph, unprofessional personal conduct means an act that is: job-related conduct that constitutes a violation of State or federal law; conviction or commission

of a criminal offense, as set out in 12 NCAC 09A .0204; the willful violation of Rules of this Chapter; conduct that is detrimental to instruction in the Commission's mandated courses; the abuse of a client or student whom the instructor is teaching or supervising or falsification of an instructor application or in other employment documentation;

- (6) has demonstrated instructional incompetence;
- (7) has knowingly and willfully obtained or attempted to obtain instructor certification by deceit, fraud, or misrepresentation;
- (8) has failed to meet or maintain good moral character as defined in: *re Willis*, 288 N.C. 1, 215 S.E. 2d 771 appeal dismissed 423 U.S. 976 (1975); *in re State v. Harris*, 216 N.C. 746, 6 S.E. 2d 854 (1940); *in re Legg*, 325 N.C. 658, 386 S.E. 2d 174(1989); *in re Applicants for License*, 143 N.C. 1, 55 S.E. 635 (1906); *in re Dillingham*, 188 N.C. 162, 124 S.E. 130 (1924); *State v. Benbow*, 309 N.C. 538, 308 S.E. 2d 647 (1983); and later court decisions that cite these cases as authority, and as required to effectively discharge the duties of a criminal justice instructor;
- (9) has failed to deliver training in a manner consistent with the Qualified Retired Law Enforcement Officers Firearms Qualification Certification Program as found in 12 NCAC 09H .0102;
- (10) has knowingly and willfully aided or attempted to aid any person in obtaining qualification or certification under the Qualified Retired Law Enforcement Officers Firearms Qualification Certification Program by deceit, fraud, or misrepresentation;
- (11) has committed or been convicted of an offense which could result in the denial, suspension, or revocation of an officer's law enforcement certification, pursuant to 12 NCAC 09G .0504; or
- (12) has knowingly made a material misrepresentation of any information required for certification or accreditation.

(f) When a person certified as a law enforcement officer by the North Carolina Criminal Justice Education and Training Standards Commission (Commission), the North Carolina Sheriffs Education and Training Standards Commission (Sheriffs' Commission), the North Carolina Department of Insurance, Office of State Fire Marshal, Fire Rescue Commission (*Fire Commission*), or Office of Emergency Medical Services and the North Carolina Company/Campus Police Program; or a similar North Carolina, out of state or federal approving, certifying or licensing agency; has been denied certification or had his or her certification suspended or revoked ~~his or her law enforcement officer or fire and rescue certification suspended or revoked~~ by their respective Commission, or agency that person shall report the suspension or revocation to the Criminal Justice Standards within ~~30 days~~, 5 days. *He or she* shall also have *his or her* General Instructor *Certification* (if applicable) similarly and automatically suspended or revoked for the same time period as *his or her* respective Commission certification.

- (1) This suspension or revocation of the General Instructor certification shall also include suspension or revocation to any Commission recognized Specialized or additional instructor certification, as outlined in 12 NCAC 09B .0304.
- (2) If the term of suspension or revocation exceeds the expiration date of the instructor's initial certification expiration date, *he or she* shall forfeit their certifications as a General Instructor and

1 Specialized Instructor and shall be required to obtain certification pursuant to the requirements of  
2 12 NCAC 09B .0302 before any instruction may be delivered in any *Commission-approved* or  
3 mandated training, including the completion of a subsequent General Instructor's training course in  
4 its entirety.

- 5 (3) If the term of suspension or revocation does not exceed the expiration date of the instructor's initial  
6 certification expiration date, the instructor shall be reinstated as a General Instructor only upon  
7 reinstatement of his or her law enforcement officer certification by the Commission. The terms of  
8 renewal for the existing General Instructor and Specialized Instructor certifications shall remain  
9 subject to all renewal requirements pursuant to 12 NCAC 09B .0303(c) by the next immediate  
10 expiration date.

11  
12 *History Note: Authority G.S. 17C-6;*

13 *Eff. January 1, 1981;*

14 *Amended Eff. August 1, 2019; December 1, 2018; October 1, 2017; October 1, 2009; August 1,*  
15 *2004; April 1, 1999; July 1, 1991; January 1, 1985.*

1 12 NCAC 09B .0302 is proposed for amendment as follows:

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3 **12 NCAC 09B .0302 GENERAL INSTRUCTOR CERTIFICATION**

4 (a) A General Instructor Certification issued after December 31, 1984, shall be limited to those topics that are not  
5 expressly incorporated under the Specialized Instructor Certification category. Individuals certified under the general  
6 instructor category shall not teach any of the subjects specified in Rule .0304 of this Subchapter, entitled "Specialized  
7 Instructor Certification." To qualify for issuance of General Instructor Certification, an applicant shall demonstrate a  
8 combination of education and experience in criminal justice and proficiency in the instructional process by meeting  
9 the following requirements:

- 10 (1) Present documentary evidence showing that the applicant:
- 11 (A) is a high school, college, or university graduate or has received a high school equivalency  
12 credential as recognized by the issuing state; and
- 13 (B) has acquired four years of practical experience as a Criminal Justice Officer, an  
14 administrator or specialist in a field directly related to the criminal justice system, or as an  
15 employee of a Criminal Justice Agency;
- 16 (2) Present evidence showing completion of a Commission-accredited instructor training program or an  
17 equivalent instructor training course utilizing the Instructional Systems Design model, an  
18 international model with applications in education, military training, and private enterprise; and
- 19 (3) Achieve a passing score on the comprehensive written examination administered by the  
20 Commission, as required by Rule .0413(d) of this Subchapter.

21 (b) Applications for General Instructor Certification shall be submitted to the Standards Division within 60 days of  
22 the date the applicant passed the state comprehensive examination administered at the conclusion of the Commission-  
23 accredited instructor training program. ~~program or an equivalent instructor training course use the Instructional~~  
24 ~~Systems Design model, an international model with applications in education, military training, and private enterprise.~~

25 ~~(c) Persons having completed a Commission-accredited instructor training course or an equivalent instructor training~~  
26 ~~course using the Instructional Systems Design model, an international model with applications in education, military~~  
27 ~~training, and private enterprise, and not having made application within 60 days of completion of the course shall~~  
28 ~~complete a subsequent Commission-accredited instructor training course or an equivalent instructor training course~~  
29 ~~utilizing the Instructional Systems Design model, an international model with applications in education, military~~  
30 ~~training, and private enterprise, in its entirety.~~

31 ~~(d) Applicants for Speed Measuring Instrument Instructor courses shall possess probationary or General Instructor~~  
32 ~~Certification.~~

33 (c) Persons having completed a Commission-accredited training course and not having made application within  
34 60days of completion of the course shall complete a subsequent Commission-accredited instructor training course in  
35 its entirety.

36 (d) Persons having completed an equivalent instructor training course using the Instructional Systems Design model,  
37 or an international model with applications in education, military training, and private enterprise, and are current

1 instructors in good standing, are eligible to apply for General Instructor certification upon achieving a passing score  
2 on the comprehensive written examination administered by the Commission, as required by Rule .0413(d) of this  
3 Subchapter.

4 (e) Applicants for Speed Measuring Instrument Instructor courses shall possess probationary or General Instructor  
5 Certification.

6  
7 *History Note: Authority G.S. 17C-6.*

8 *Eff. January 1, 1981;*

9 *Amended Eff. August 1, 2019; October 1, 2017; January 1, 2017; February 1, 2016; January 1,*  
10 *2015; January 1, 2006; May 1, 2004; August 1, 2000; July 1, 1991; December 1, 1987; October 1,*  
11 *1985; January 1, 1985.*

12 NCAC 09B .0303 is proposed for amendment as follows:

**12 NCAC 09B .0303 TERMS AND CONDITIONS OF GENERAL INSTRUCTOR CERTIFICATION**

(a) An applicant meeting the requirements for certification as a general instructor shall, for the first 12 months of certification, be in a probationary status. The General Instructor Certification, Probationary Status, shall automatically expire 12 months from the date of issuance.

(b) The probationary instructor shall be eligible for general instructor status if the instructor, through application at the end of the probationary period, submits to the Commission a favorable recommendation from a School Director or In-Service Training Coordinator accompanied by a certification on a Commission Instructor Evaluation Form F-16 that the instructor taught a minimum of eight hours of Commission-accredited basic training course, Commission-recognized in-service training course, or training course pursuant to 12 NCAC 10B .0601, 10B .1302, or 10B .2005 during the probationary period. The instructor shall achieve a minimum of 64 points on all instruction evaluations submitted to the Commission. The Commission Instructor Evaluation Form F-16 is located on the agency's website: <http://www.ncdoj.gov/getdoc/c2eba6aa-12bc-4303-bf4b-5fa0431ef5a1/F-16-6-11.aspx>.

(c) Probationary Instructors for just cause, may be granted an extension of the one-year period to teach the 8 hour minimum requirement. The Director may grant such extensions on a one-time basis only not to exceed 12 months. For purposes of this Rule, just cause means accident, illness, emergency, course cancellation, or other exceptional circumstances which precluded the instructor from fulfilling the teaching requirement.

~~(e)~~ (d) The term of certification as a general instructor is indefinite, provided the instructor completes during each calendar year a minimum of one hour of instructor refresher training provided by North Carolina Justice Academy. The Standards Division shall post on its website on January 1 of the current year the list of instructors who have met this requirement during the previous calendar year.

~~(d)~~(e) If the instructor fails to meet the instructor refresher training specified in Paragraph (c) of this Rule, he or she shall deliver eight hours of evaluated instruction in a Commission-accredited basic training, Commission-recognized in-service training course, or training course pursuant to 12 NCAC 10B .0601, 10B .1302, or 10B .2005, and complete the instructor refresher training specified in Paragraph (c) of this Rule within 60 days from the last day of the previous calendar year.

~~(e)~~ (f) If an instructor fails to meet the requirements of Paragraph (c) or (d) of this Rule, the certification period for the instructor shall cease, and the instructor shall be required to complete the requirements of Rule 09B .0302 of this Section in order to obtain probationary instructor status.

~~(f)~~ (g) The use of guest participants in a delivery of the Basic Law Enforcement Training Course is permissible. However, such guest participants are subject to the direct on-site supervision of a Commission-certified instructor and must be authorized by the School Director. A guest participant shall only be used to complement the primary certified instructor of the block of instruction and shall not replace the primary instructor.

~~(g)~~ (h) "Commission-recognized in-service training" shall mean training meeting the following requirements:

- (1) training is taught by an instructor certified by the Commission;
- (2) training utilizes a lesson plan in the Instructional Systems Design format; and

- 1 (3) completion of training shall be demonstrated by a passing score on a written test as follows:
- 2 (A) a written test comprised of at least five questions per credit shall be developed by the
- 3 agency or the North Carolina Justice Academy for each in-service training topic requiring
- 4 testing. Written courses that are more than four credits in length are required to have a
- 5 written test comprising of a minimum of 20 questions. The Firearms Training and
- 6 Qualifications in-service course is exempt from this written test requirement;
- 7 (B) a student shall pass each test by achieving 70 percent correct answers; and
- 8 (C) a student who completes a topic of in-service training in a traditional classroom setting or
- 9 online and fails the end of topic exam shall be given one attempt to re-test. If the student
- 10 fails the exam a second time, the student shall complete the in-service training topic in a
- 11 traditional classroom setting before taking the exam a third time.
- 12 (D) Topics delivered pursuant to 12 NCAC 09E .0104(1) and 12 NCAC 09E .0105(a)(1) shall
- 13 not require written testing.
- 14

15 *History Note: Authority G.S. 17C-6;*

16 *Eff. January 1, 1981;*

17 *Amended Eff. August 1, 2019; January 1, 2017; December 1, 2007; November 1, 2007; August 1,*

18 *2006; January 1, 2006; August 1, 2000; July 1, 1991; October 1, 1985; January 1, 1985; January*

19 *1, 1983.*

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1 12 NCAC 09B .0503 is proposed for amendment as follows:  
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3 **12 NCAC 09B .0503 SUSPENSION: REVOCATION: DENIAL/SCHOOL DIR. CERTIFICATION**

4 (a) The Commission may deny, suspend, or revoke certification of a school director when the Commission finds that  
5 the person has failed to meet or continuously maintain any of the requirements for qualification or through  
6 performance fails to comply with program rules and procedures of the Commission or otherwise demonstrates  
7 incompetence.

8 (b) Prior to the Commission's action denying, suspending, or revoking a school director's certification, the Standards  
9 Division may notify the person that a deficiency appears to exist and may attempt, in an advisory capacity, to assist  
10 the person in correcting the deficiency.

11 (c) The Commission shall deny, suspend or revoke the certification of a School Director when they have found the  
12 person has engaged in any conduct outlined in 12 NCAC 09B .0301.

13  
14 *History Note: Authority G.S. 17C-6;*

15 *Eff. August 1, 2019; January 1, 1985.*  
16

1 12 NCAC 09C .0307 is proposed for amendment as follows:

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3 **12 NCAC 09C .0307 AGENCY RETENTION OF RECORDS OF CERTIFICATION**

4 (a) Each agency shall place in personnel files the official notification from the Commission of either probationary or  
5 general certification for each criminal justice officer employed or appointed by the agency. Such files shall be  
6 available for examination at any reasonable time by representatives of the Commission for the purpose of verifying  
7 compliance with these Rules. The personnel files shall also contain:

8 (1) Criminal Justice Officer with probationary certification:

- 9 (1) (A) the officer's Personal History Statement;
- 10 (2) (B) the officer's Medical History Statement and Medical Examination Report;
- 11 (3) (C) documentation of the officer's drug screening results;
- 12 (4) (D) for the criminal justice officer, the Commission's Mandated Background Investigation Form as
- 13 completed by the agency's investigator; ~~for criminal justice officers employed by the North Carolina~~
- 14 ~~Department of Correction, a written summary of the Background Investigation conducted on the~~
- 15 ~~officer;~~
- 16 (5) (E) a written summary of the officer's Qualifications Appraisal Interview;
- 17 (6) (F) documentation of the officer's educational achievements;
- 18 (7) (G) documentation of all criminal justice training completed by the officer;
- 19 (8) (H) the results of the officer's fingerprint record check;
- 20 (9) (I) a written summary of the officer's psychological examination results; ~~and~~
- 21 (10) (J) for the law enforcement officer, documentation on a commission-approved form as set forth in 12
- 22 NCAC 09E .0103(3) and .0110(5) ~~and~~ that the officer has completed the minimum in-service
- 23 training as ~~required~~ required;
- 24 (K) certified copy of proof of age, citizenship, and educational requirements required in 12 NCAC 09B
- 25 .0101;
- 26 (L) copy of Report of Appointment/Application for Certification Form F-5A;
- 27 (M) oath of office;
- 28 (N) copy of firearms qualification; and
- 29 (O) once separated, a copy of the Affidavit of Separation.

30 (2) Criminal Justice Officer with general certification:

- 31 (A) the officer's Medical History Statement and Medical Examination Report;
- 32 (B) documentation of the officer's drug screening results;
- 33 (C) documentation of the officer's educational achievements;
- 34 (D) documentation of all criminal justice training completed by the officer;
- 35 (E) the results of the officer's fingerprint record check;

1 (F) for the law enforcement officer, documentation on a commission-approved form as set forth in 12  
2 NCAC 09E .0103(3) and .0110(5) that the officer has completed the minimum in-service training  
3 as required;

4 (G) certified copy of proof of age, citizenship, and educational requirements required in 12 NCAC 09B  
5 .0101;

6 (H) a copy of the Report of Appointment/Application for Certification Form F-5;

7 (I) oath of office;

8 (J) copy of firearms qualification; and

9 (K) once separated, a copy of the Affidavit of Separation.

10 (b) These records shall be maintained in compliance with the North Carolina Department of Natural and Cultural  
11 Resources Retention Schedule which requires that Personnel Records be destroyed after 30 years from the date of  
12 separation except for those records involved in a pending audit, legal, or other official action which may be  
13 destroyed at the conclusion of any legal action if they met the required retention period as established by the North  
14 Carolina Department of Natural and Cultural Resources.

15  
16 *History Note: Authority G.S. 17C-2; 17C-6;*

17 *Eff. January 1, 1981;*

18 *Amended Eff. August 1, 2019; August 1, 1998; January 1, 1995; July 1, 1990; July 1, 1989; June 1,*  
19 *1986.*

12 NCAC 09E .0105 is proposed for amendment as follow:

**12 NCAC 09E .0105 MINIMUM TRAINING SPECIFICATIONS: ANNUAL IN-SERVICE TRAINING**

(a) The following topics, specifications, and hours shall be included in each law enforcement officer's annual in-service training courses. For the purposes of this Subchapter, a credit shall be equal to one hour of traditional classroom instruction. All sworn law enforcement officers shall complete a minimum of 24 in-service training credits. The following topics, totaling ~~20~~ 18 credits, shall be specifically required:

- (1) ~~2019-2020~~ Firearms Training and Qualification (4 credits);
- (2) ~~2019-2020~~ Legal Update (4 credits);
- (3) ~~2019 Juvenile Law Update (2 credits);~~ 2020 Long-Term Effects of Childhood Adversity (2 credits);
- (4) ~~2019 Individual Wellness: Coping with Stress & PTSD (2 credits);~~ 2020 The Signs Within: Suicide Prevention Education and Awareness (2 credits);
- (5) ~~2019 Best Practices for Officers During Community Dissent (2 credits);~~ 2020 Career Survival: Training and Standards Issues (2 credits);
- (6) ~~2019 Law Enforcement Intelligence Update: Gangs and Divisive Groups (2 credits);~~ 2020 Communication Strategies When Encountering Persons Who are Deaf or Hard of Hearing (2 credits);
- (7) ~~2019 Domestic Violence: Law and Procedure Update (2 credits);~~ 2020 Armed/Unarmed Security/Company Police: Understanding Their Roles and Authority (2 credits);
- (8) Topics of Choice (12 credits);
- (A) ~~2019 Opioid Awareness and Response (2 credits);~~ Hazardous Materials (2 credits);
- (B) Bloodborne Pathogens (2 credits);
- (C) Situational Awareness/Subject Control (4 credits); and
- (D) Law enforcement Threat Assessment (4 credits).

(b) All sworn law enforcement officers shall complete a minimum of 4 in-service credits, in topics identified by their respective agency heads. The agency head may choose any topic, provided the lesson plan is written in Instructional Systems Design format and is taught by an instructor who is certified by the Commission. Topics delivered pursuant to Rule .0104(1) of this Section and National Certification Programs administered by the International Association of Directors of Law Enforcement Standards and Training (IADLEST) completed during the mandated in-service year, shall satisfy in part or in whole the topic requirements set forth by the agency head. To satisfy this requirement these topics shall not be required to be written in Instructional Systems Design format or delivered by an instructor certified by the Commission.

(c) The "Specialized Firearms Instructor Training Manual" published by the North Carolina Justice Academy shall be applied as a guide for conducting the annual in-service firearms training program. Copies of this publication may be inspected at the office of the:

Criminal Justice Standards Division  
North Carolina Department of Justice

1700 Tryon Park Drive  
Raleigh, North Carolina 27610

and may be obtained at the cost of printing and postage from the Academy at the following address:

North Carolina Justice Academy  
Post Office Drawer 99  
Salemberg, North Carolina 28385

(d) The "In-Service Lesson Plans" published by the North Carolina Justice Academy shall be applied as a minimum curriculum for conducting the annual in-service training program. Copies of this publication may be inspected at the office of the:

Criminal Justice Standards Division  
North Carolina Department of Justice  
1700 Tryon Park Drive  
Raleigh, North Carolina 27610

and may be obtained at the cost of printing and postage from the Academy at the following address:

North Carolina Justice Academy  
Post Office Drawer 99  
Salemberg, North Carolina 28385

(e) Lesson plans are designed to be delivered in hourly increments. A student who completes an online in-service training topic shall receive the number of credits that correspond to the number of hours of traditional classroom training, regardless of the amount of time the student spends completing the course.

(f) Completion of training shall be demonstrated by passing a written test for each in-service training topic, as follows:

- (1) A written test comprised of at least five questions per credit shall be developed by the agency or the North Carolina Justice Academy for each in-service training topic requiring testing. Written courses that are more than four credits in length shall include a written test comprising of a minimum of 20 questions. The Firearms Training and Qualifications in-service course and topics delivered pursuant to Rule .0104(1) of this Section shall be exempt from this written test requirement;
- (2) A student shall pass each test by achieving 70 percent correct answers; and
- (3) A student who completes a topic of in-service training in a traditional classroom setting or online and fails the end of topic exam shall be given one attempt to re-test. If the student fails the exam a second time, the student shall complete the in-service training topic in a traditional classroom setting before taking the exam a third time.

*History Note: Authority G.S. 17C-6; 17C-10;*  
*Eff. July 1, 1989;*  
*Amended Eff. January 1, 2005; November 1, 1998;*  
*Temporary Amendment Eff. January 1, 2005;*

1                    *Amended Eff. January 1, 2020; January 1, 2019; January 1, 2018; January 1, 2017; July 1, 2016;*  
2                    *January 1, 2016; January 1, 2015; February 1, 2014; June 1 ,2012; February 1, 2011; January 1,*  
3                    *2010; April 1, 2009; April 1, 2008; February 1, 2007; January 1, 2006.*

4  
5

12 NCAC 09F .0102 is proposed for amendment as follows:

**12 NCAC 09F .0102 TOPICAL AREAS**

The course entitled "Concealed Carry Handgun Training" shall consist of eight hours of instruction and shall include the following identified topical areas:

- (1) Legal Issues (two hours): The student shall be able to explain the following:
  - (a) the types of situations ~~that~~ in which the use of deadly physical force would be justified;
  - (b) list the areas where the carrying of a concealed handgun is prohibited;
  - (c) the requirements ~~of~~ for handgun storage under G.S. 14-315.1; and
  - (d) the laws governing the carrying of a concealed handgun.
- The instructor shall determine the student's level of understanding of the relevant legal issues by administering a written examination.
- (2) Handgun Nomenclature: ~~The students shall be able either verbally or in writing to list the instructor shall identify to the students the primary parts of their personal handguns: the revolver and semiautomatic handgun.~~
- (3) Handgun Safety: The students shall be able to:
  - (a) list at least four rules of safe gun handling and demonstrate all of these procedures during range exercises;
  - (b) list four methods of safely storing a handgun and choose the method most appropriate for their personal use;
  - (c) describe safety issues relating to the safe carry of a handgun; and
  - (d) determine the proper storage of their handguns when there are minors in the home.
- (4) Handgun Fundamentals: ~~The students instructor shall demonstrate to the students be able to:~~
  - (a) ~~demonstrate~~ how to load both a revolver and a semiautomatic handgun;
  - (b) ~~demonstrate~~ how to unload both a revolver and a semiautomatic handgun;
  - (c) ~~describe~~ the operational characteristics of ~~their handguns; and the revolver and the semiautomatic handgun.~~
  - (d) ~~achieve a passing score on a proficiency test administered by the instructor as prescribed in Rule .0105 of this Section.~~
- (5) Marksmanship Fundamentals: The student shall be able to:
  - (a) demonstrate a proper handgun grip;
  - (b) demonstrate either the Weaver or Isosceles Stance;
  - (c) describe the elements of sight alignment and sight picture; and
  - (d) demonstrate trigger control in a dry fire exercise.
- (6) Presentation Techniques: ~~The students instructor shall be able to demonstrate to the students the draw or presentation of the revolver and semiautomatic handgun with their handguns: a variety of holster types.~~

- (7) Cleaning and Maintenance: The ~~students~~ instructor shall ~~be able to:~~ demonstrate to the student:
- (a) ~~demonstrate~~ how to "field strip" the handguns if ~~the~~ their handguns handgun can be field stripped;
  - (b) ~~describe~~ how to perform a "Function Check" on ~~their personal handguns;~~ and
  - (c) based on the manufacturer's recommendations, list the lubrication points of their specific handguns.
- (8) Ammunition: The students shall be able to list the four components of handgun ammunition.
- (9) Proficiency Drills: The students shall be able to:
- (a) demonstrate how to check a handgun in order to ensure that it is safe;
  - (b) during range exercises, demonstrate how to fire a handgun from a ready position;
  - (c) during range exercises, demonstrate the ability to fire a handgun from various distances; and
  - (d) during range exercises, achieve a passing score on a proficiency test administered by the instructor as prescribed in Rule .0105 of this Section.

*History Note: Authority G.S. 14-415.12;*  
*Temporary Adoption Eff. November 1, 1995;*  
*Eff. May 1, 1996;*  
*Amended Eff. August 1, 2019; November 1, 2014; February 1, 2013; May 1, 2004.*



1 12 NCAC 09F .0105 is proposed for amendment as follows:

2  
3 **12 NCAC 09F .0105 INSTRUCTOR RESPONSIBILITIES**

4 In delivering the "Concealed Carry Handgun Training" course the instructor shall:

- 5 (1) have a valid Concealed Carry Handgun instructor certification issued by the Criminal Justice  
6 Standards Division;
- 7 (2) file a copy of the proposed firearms course description, outline, and proof of instructor certification  
8 along with a written request to conduct the "Concealed Carry Handgun Training" course for  
9 approval by the Commission prior to delivery of any instruction required by G.S. 14-415.12;
- 10 (3) file a copy of all modifications;
- 11 (4) be issued by Commission staff a quantity of certificates as requested by the instructor for course  
12 participants which shall bear the instructor's name, the instructor's assigned number, be sequentially  
13 numbered, and bear the raised seal of the Commission;
- 14 (5) if a Concealed Carry Handgun Instructor relinquishes his or her certification and wants to transfer  
15 his or her assigned participants' certificates, to another Concealed Carry Handgun instructor a  
16 written request shall be submitted to the Criminal Justice Standards Division Director for approval.  
17 The written request shall include the following:
- 18 (a) instructor name and identification number;
- 19 (b) name of business;
- 20 (c) phone number and email address;
- 21 (d) recipient instructor name, identification number;
- 22 (e) business name;
- 23 (f) phone number, email address ;and
- 24 (g) list of the assigned certificate numbers for participants to be transferred,
- 25 ~~(6)~~(5) affix the student's name to one certificate and issue that certificate to the student who successfully  
26 completes the "Concealed Carry Handgun Training" course;
- 27 ~~(7)~~(6) conduct the training consistent with the guidelines established in 12 NCAC 09F .0102;
- 28 ~~(8)~~(7) administer a written examination to the student on the legal issues block of instruction to  
29 demonstrate that the student is knowledgeable in the laws of this State governing the carrying of a  
30 concealed handgun and the use of deadly force; and
- 31 ~~(9)~~(8) administer a proficiency examination that demonstrates the student is competent in the firing and  
32 safe handling of a handgun. Such examination shall include the following:
- 33 (a) The student fires 30 rounds of ammunition at a bulls-eye or silhouette target from three,  
34 five and seven yard distances;
- 35 (b) At each yard distance the student shall fire a minimum of ten rounds; and
- 36 (c) 21 of the 30 rounds fired by the student hit the target.
- 37

1    *History Note:*    *Authority G.S. 14-415.12; 14-415.13;*  
2                            *Temporary Adoption Eff. November 1, 1995;*  
3                            *Eff. May 1, 1996;*  
4                            *Amended Eff. August 1, 2019; April 1, 2018; May 1, 2004.*

1 12 NCAC 09G .0306 is proposed for amendment as follows:

2  
3 **12 NCAC 09G .0306 RETENTION OF RECORDS OF CERTIFICATION**

4 (a) The North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice shall place in  
5 the officer's certification file the official notification from the Commission of either Probationary or General  
6 Certification for each correctional officer, probation/parole officer employed or appointed by the North Carolina  
7 Department of Public Safety, Division of Adult Correction and Juvenile Justice. The certification file shall also  
8 contain:

- 9 (1) the officer's Report of Appointment/Application for Certification, including the Department of  
10 Public Safety Personnel Action Form;  
11 (2) the officer's Medical History Statement and Medical Examination Report;  
12 (3) documentation of the officer's drug screening results;  
13 (4) documentation of the officer's educational achievements;  
14 (5) documentation of all corrections training completed by the officer;  
15 (6) documentation of the officer's psychological examination results;  
16 (7) documentation and verification of the officer's age;  
17 (8) documentation and verification of the officer's citizenship;  
18 (9) documentation of any prior criminal record; and  
19 (10) miscellaneous documents including letters, investigative reports, and subsequent charges and  
20 ~~convictions~~; convictions;  
21 (11) oath of office; and  
22 (12) if separated, a copy of the Report of Separation or Department of Public Safety Action Form.

23  
24 (b) All files and documents relating to an officer's certification shall be available for examination and utilization at  
25 any reasonable time by representatives of the Commission for the purpose of verifying compliance with the Rules in  
26 this Subchapter. These records shall be maintained in compliance with the North Carolina Department of ~~Public~~  
27 ~~Safety, Division of Adult Correction and Juvenile Justice's Records Retention Schedule.~~ Cultural and Natural  
28 Resources Retention Schedule which requires that Personnel Records be destroyed after 30 years from the date of  
29 separation except for those records involved in a pending audit, legal, or other official action which may be destroyed  
30 at the conclusion of any legal action if they met the required retention period as established by the North Carolina  
31 Department of Cultural and Natural Resources.

32  
33 *History Note: Authority G.S. 17C-2; 17C-6;*  
34 *Temporary Adoption Eff. January 1, 2001;*  
35 *Eff. August 1, 2002;*  
36 *Amended Eff. August 1, 2019; January 1, 2015; August 1, 2004.*  
37

1 12 NCAC 09G .0407 is proposed for amendment as follows:

2  
3 **12 NCAC 09G .0407      SUSPENSION:      REVOCATION:      DENIAL/SCHOOL      DIRECTOR**  
4 **CERTIFICATION**

5 (a) The Commission may deny, suspend, or revoke certification of a School Director when the Commission finds that  
6 the person has failed to meet or continuously maintain any of the requirements for qualification or through  
7 performance fails to comply with program rules of the Commission or otherwise demonstrates incompetence.

8 (b) Prior to the Commission's action denying, suspending, or revoking a School Director's certification, the Standards  
9 Division may notify the person that a deficiency appears to exist and may attempt, in an advisory capacity, to assist  
10 the person in correcting the deficiency.

11 (c) The Commission shall deny, suspend or revoke the certification of a School Director when they have found the  
12 person has engaged in any conduct outlined in 12 NCAC 09G .0307.

13  
14  
15 *History Note:      Authority G.S. 17C-6;*  
16 *Temporary Adoption Eff. January 1, 2001;*  
17 *Temporary Adoption Expired December 20, 2001;*  
18 *Temporary Adoption Eff. April 15, 2003;*  
19 *Eff. August 1, 2019; April 1, 2004.*  
20

1 12 NCAC 09G .0307 is proposed for amendment as follows:

2  
3 **12 NCAC 09G .0307 CERTIFICATION OF INSTRUCTORS**

4 (a) ~~Any~~ A person participating in a Commission-accredited corrections training course or program as an instructor,  
5 teacher, professor, lecturer, or other participant making presentations to the class shall first be certified by the  
6 Commission as an instructor.

7 (b) The Commission shall certify instructors under the following categories: General Instructor Certification or  
8 Specialized Instructor Certification or Professional Lecturer Certification as outlined in 12 NCAC 09G ~~.0308, and~~  
9 ~~.0310, .0308, .0310, and 0311~~ of this Section. ~~Such instructor~~ Instructor certification shall be granted on the basis of  
10 documented qualifications of experience, education, and training in accord with the requirements of this Section and  
11 ~~reflected as stated~~ on the applicant's Request for Instructor Certification Form.

12 (c) In addition to all other requirements of this Section, each instructor certified by the Commission to teach in a  
13 Commission-~~accredited~~ certified course shall remain competent in his/her specific or specialty areas. Such  
14 competence includes remaining current in the instructor's area of expertise, which may be demonstrated by attending  
15 and ~~successfully~~ completing any instructor all updates ~~updated instructor training courses issued~~ required by the  
16 Commission.

17 ~~(d) The Standards Division may notify an applicant for instructor certification or a certified instructor that a deficiency~~  
18 ~~appears to exist and attempt, in an advisory capacity, to assist the person in correcting the deficiency.~~

19 ~~(e) (d) When~~ If any a person certified as an instructor by the Commission is found to have knowingly and willfully  
20 violated any provision or requirement of the Rules in this Subchapter, the Commission may take action to correct the  
21 violation and to ensure that the violation does not recur, including:

- 22 (1) issuing an oral warning and request for compliance;
- 23 (2) issuing a written warning and request for compliance;
- 24 (3) issuing an official written reprimand;
- 25 (4) suspending the individual's certification for a specified period of time or until acceptable corrective  
26 action is taken by the individual; or
- 27 (5) revoking the individual's certification.

28 ~~(f) (e)~~ The Commission ~~may~~ shall deny, suspend, or revoke an instructor's certification when the Commission finds  
29 that the person:

- 30 (1) has failed to meet and maintain any of the requirements for qualification; ~~or~~
- 31 (2) has failed to remain currently knowledgeable in the person's areas of expertise; ~~or~~
- 32 (3) has failed to deliver training in a manner consistent with the instructor lesson plans outlined in the  
33 "Basic Instructor Training Manual" as found in 12 NCAC 09G .0414; ~~or~~
- 34 (4) ~~has demonstrated unprofessional personal conduct in the delivery of Commission-mandated~~  
35 ~~training; or has failed to follow specific guidelines outlined in the basic corrections officers' training~~  
36 manual set out in 12 NCAC 09G .0411 through .0416;

- (5) has demonstrated unprofessional personal conduct in the delivery of commission-mandated training. for the purposes of this Subparagraph, unprofessional personal conduct as evidenced by: job-related conduct which constitutes a violation of State or federal law; conviction or commission of a criminal offense, as set out in 12 NCAC 09G .0504; the willful violation of Rules of this Chapter; conduct that is detrimental to instruction in the Commission's mandated courses; the abuse of a client or student whom the instructor is teaching or supervising; falsification of an instructor application or in other employment documentation; or an amorous, dating or sexual relationship ("intimate relationship"), even when apparently consensual, between a student enrolled in the Basic Probation Parole Officer Training program and any instructor or School Director involved in the delivery of that program in which the student is enrolled.
- ~~(6)(5)~~ has demonstrated instructional incompetence; or
- ~~(7)(6)~~ has knowingly and willfully obtained, or attempted to obtain instructor certification by deceit, fraud, or misrepresentation; or
- ~~(7)~~ has failed to meet or maintain good moral character as required to effectively discharge the duties of a corrections instructor, as evidenced by, but not limited to:
- ~~(A)~~ not having been convicted of a felony;
  - ~~(B)~~ not having been convicted of a misdemeanor as defined in 12 NCAC 09G .0102(10) for five years since the date of conviction or the completion of any corrections supervision imposed by the courts whichever is later;
  - ~~(C)~~ having submitted to and produced a negative result on a drug test which meets the certification standards of the Department of Health and Human Services for Federal Workplace Drug Testing Programs, copies of which may be obtained from National Institute on Drug Abuse, 5600 Fisher Lane, Rockville, Maryland 20857 at no cost, to detect the illegal use of at least cannabis, cocaine, phenacyclidine (PCP), opiates and amphetamines or their metabolites;
  - ~~(D)~~ submitting to a background investigation consisting of:
    - ~~(i)~~ verification of age;
    - ~~(ii)~~ verification of education;
    - ~~(iii)~~ criminal history check of local, state, and national files;
  - ~~(E)~~ being truthful in providing all required information as prescribed by the application process; or
- ~~(8)~~ has failed to meet or maintain good moral character as defined in: re Willis, 288 N.C. 1, 215 S.E. 2d 771 appeal dismissed 423 U.S. 976 (1975); State v. Harris, 216 N.C. 746, 6 S.E. 2d 854 (1940); in re Legg, 325 N.C. 658, 386 S.E. 2d 174(1989); in re Applicants for License, 143 N.C. 1, 55 S.E. 635 (1906); in re Dillingham, 188 N.C. 162, 124 S.E. 130 (1924); State v. Benbow, 309 N.C. 538, 308 S.E. 2d 647 (1983); and later court decisions that cite these cases as authority, and as required to effectively discharge the duties of a criminal justice instructor;

(8) ~~has failed to deliver training in a manner consistent with the curriculum outlines in the corrections officers' training manuals set out in 12 NCAC 09G .0411 through .0416.~~

(9) ~~has committed or been convicted of an offense which could result in the denial, suspension, or revocation of an officers certification pursuant to 12 NCAC 09G .0204 or 12 NCAC 09G .0504;~~

(10) ~~has knowingly made a material misrepresentation of any information required for certification or accreditation.~~

(f) When a person certified as an officer by the North Carolina Criminal Justice Education and Training Standards Commission (Commission), the North Carolina Sheriffs Education and Training Standards Commission (Sheriffs' Commission), or the North Carolina Department of Insurance, Office of State Fire Marshal, Fire Rescue Commission (Fire Commission), Office of Emergency Medical Services and the North Carolina Company/Campus Police Program; or a similar North Carolina, out of state or federal approving, certifying or licensing agency; has been denied certification or had his or her certification suspended or revoked by their respective Commission or agency that person shall report the suspension or revocation to the Criminal Justice Standards within 5-days. They shall also have their General Instructor certification (if applicable) similarly and automatically suspended or revoked for the same time period as their respective Commission certification.

(1) This suspension or revocation of the General Instructor certification shall also include suspension or revocation to any Commission recognized Specialized or additional instructor certification, as outlined in 12 NCAC 09G .0310.

(2) If the term of suspension or revocation exceeds the expiration date of the instructor's initial certification expiration date, they shall forfeit their certifications as a General Instructor and Specialized Instructor and shall be required to obtain certification pursuant to the requirements of 12 NCAC 09G .0304 before any instruction may be delivered in any commission approved or mandated training, including the completion of a subsequent General Instructor's training course in its entirety.

(3) If the term of suspension or revocation does not exceed the expiration date of the instructor's initial certification expiration date, the instructor shall be reinstated as a General Instructor only upon reinstatement of his or her law enforcement officer certification by the Commission. The terms of renewal for the existing General Instructor and Specialized Instructor certifications shall remain subject to all renewal requirements pursuant to 12 NCAC 09G .0309(c) by the next immediate expiration date.

*History Note: Authority G.S. 17C-6; 17C-10;  
Temporary Adoption Eff. January 1, 2001;  
Eff. August 1, 2019; August 1, 2002.*